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Attorneys for Defendants
CENTOCOR ORTHO BIOTECH INC., erroneously
served and sued herein as CENTOCOR, INC., and
JOHNSON & JOHNSON

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

STEPHEN WENDELL & LISA
WENDELL, his wife, for themselves and
as successors in interest to MAXX
WENDELL, deceased,

Plaintiffs,

v.

JOHNSON & JOHNSON; CENTOCOR,
INC.; ABBOTT LABORATORIES;
SMITHKLINE BEECHAM d/b/a
GLAXOSMITHKLINE; TEVA
PHARMACEUTICALS USA; GATE
PHARMACEUTICALS, a division of
TEVA PHARMACEUTICALS USA; PAR
PHARMACEUTICALS; MYLAN
LABORATORIES, INC.,

Defendants.

Case No. 4:09-CV-04124-CW

**STIPULATED REQUEST FOR AN ORDER
EXTENDING TIME**

Amended Complaint: June 10, 2010
Judge: Honorable Claudia Wilken

Pursuant to Local Rule 6-2(a), the parties jointly request that the deadlines in this case be
extended as set forth herein.

JOINT STATEMENT IN SUPPORT OF STIPULATION

The current fact discovery deadline is February 2, 2011. All parties request further time within which to conduct fact discovery. An extension of the fact discovery deadline will affect other deadlines in this case, but should have little or no effect on the April 2012 trial date.

Discovery in this case began in July of 2010 after the initial Case Management Conference on June 3, 2010. Before that time, multiple parties were dismissed and the case was narrowed in scope.

In July 2010, Defendants promptly began to collect medical records once Plaintiffs authorized the release of decedent Max Wendell's medical records.¹ As set forth in the attached, despite diligent efforts by counsel for Defendants, Defendants have been unable to obtain all medical records from third parties, who have been withholding medical records for various reasons.² (*See* Declaration of Michelle Childers, attached hereto). To conserve judicial resources, Defendants have attempted to resolve these issues informally, rather than force third party subpoena recipients to file motions to quash. After obtaining the required medical records, Defendants plan to depose key witnesses, including Plaintiffs and Max Wendell's treating physicians.

Meanwhile, in July 2010, Plaintiffs served extensive written discovery. Defendants served their responses to written discovery from August through November. Defendants have had extensive discussions over the scope of any protective order, and those issues have been resolved. Defendants collectively will produce over two million pages of documents which Plaintiffs will need to review. After that time, Plaintiffs plan to take depositions of company witnesses.

¹ Defendants provided blank authorizations to Plaintiffs on March 10, 2010. At that time, discovery had not yet begun.

² In the case of Stanford, for example, after much effort to provide documentation to Stanford from Plaintiffs in response to multiple rounds of demands, Stanford took the position that the signatures provided to them do not match the signatures on file. After much discussion with Stanford, the medical records were released and Defendants received them on January 21, 2011. Billing records from Kaiser Permanente are still outstanding.

1 Since the previous Case Management Conference, the parties have had multiple
 2 conferences, and have agreed to private mediation to occur near the end of discovery. On or
 3 around December 17, 2010, the parties filed a stipulated request to extend the mediation deadline
 4 and the Court granted this extension. At that time, the parties notified the Court that they would
 5 need additional time within which to complete fact discovery but, at that time, had not determined
 6 how much additional time would be necessary. The only date that was previously extended was
 7 the date for mediation, i.e., all of the discovery dates leading up to mediation remained in place.

8 **THE PARTIES HEREBY STIPULATE AS FOLLOWS:**

- 9 1. The parties agree to complete fact discovery on or before June 30, 2011.
- 10 2. The parties agree that Plaintiffs shall designate any testifying expert(s) and
 11 provide the report(s) required by Fed. R. Civ. P. 26(a)(2)(b) on or before August 12, 2011.
- 12 3. The parties agree that Defendants shall designate any testifying expert(s) and
 13 provide the report(s) required by Fed. R. Civ. P. 26(a)(2)(b) on or before October 30, 2012.
- 14 4. The parties agree to complete expert discovery on or before December 14, 2011.
- 15 5. The parties request that the Court set a deadline such that dispositive motions will
 16 be heard on or before January 26, 2012. **A case management conference will be held on the**
 17 **same date as the dispositive motion.**

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2 6. **DECLARATION PURSUANT TO L.R. 6-2(a):** The parties declare that: (1) the
 3 reason for the requested enlargement of time is to allow time to obtain the medical records
 4 necessary to depose Plaintiffs and treating healthcare providers, to conduct those depositions once
 5 the medical records have been obtained, and to allow Plaintiffs to review Defendants' voluminous
 6 production of documents prior to taking depositions of company witnesses; (2) there has been
 7 only one previous modification to the schedule for the case — a request to extend the deadline to
 8 conduct mediation, at which time Defendants notified the Court that the instant request was on
 9 the horizon; and (3) the parties anticipate that this time modification will affect other discovery
 10 deadlines set for this case but will not alter the April 2012 trial date.

11
 12 /s/ Kevin Haverty

13 Kevin Haverty (*pro hac vice*)
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 17 /s/ Prentiss W. Hallenbeck, Jr.

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 d/b/a GlaxoSmithKline*

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 26 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

27 Dated: 2/3/2011

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 CLAUDIA WILKEN
 United States District Judge

ATTESTATION PURSUANT TO GENERAL ORDER 45

I, Michelle A. Childers, am the ECF user whose ID and password are being used to file this STIPULATED REQUEST FOR AN ORDER EXTENDING TIME. In compliance with General Order 45, X.B., I hereby attest that the following attorneys have concurred in this filing: Kevin Haverty, counsel for Plaintiffs; Prentiss W. Hallenbeck, Jr., counsel for Teva Pharmaceuticals USA, Inc., and Par Pharmaceutical, Inc.; William A. Hanssen, counsel for SmithKline Beecham Corporation; and Andrew P. Bautista, counsel for Abbott Laboratories.

/s/ Michelle A. Childers